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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/629,635	07/30/2003	Francis Moore	200314263-1	9146

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FORT COLLINS, CO 80527-2400

EXAMINER

READY, BRYAN

ART UNIT	PAPER NUMBER
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2852

MAIL DATE	DELIVERY MODE
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09/14/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/629,635

Applicant(s)

MOORE ET AL.

Examiner

Bryan P. Ready

Art Unit

2852

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 July 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 July 2007 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

1. Claim 25 is objected to because of the following informalities: "the connector" lacks proper antecedent basis. Appropriate correction is required.

Drawings

2. The drawings are objected to because Fig. 4c does not clearly illustrate clip 12e. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-9, 12, 14-19, and 21-22 rejected under 35 U.S.C. 102(b) as being anticipated by Uchida et al. (US 5,239,805).

Regarding Claim 1, Uchida et al. disclose (Figures 1-4) a package (2) adapted to contain a hard copy consumable (1), the package (2) comprising a protection element (5), the element (5) being connected to the package (2) and having a surface adapted to be removably connected to a portion of the consumable (1), such that the element (5) is arranged to be removed from the portion of the consumable (1) by action of removing the consumable from the package (2), wherein the protection element (5) is connected to one or more surfaces (3) of the package (Abstract).

Regarding Claim 2, Uchida et al. disclose said element (5) is arranged to protect one or more features associated with the consumable (1) whilst it is connected to the consumable (seal protects against developer pollution).

Regarding Claim 3, Uchida et al. disclose the protection element (5) to be adapted to be removably bonded to one or more surfaces of the consumable (see Fig. 4).

Art Unit: 2852

Regarding Claim 4, Uchida et al. disclose the protection element (5) is adapted to be removably retained against or adjacent to a surface of the consumable (1) by a mechanical fastener (col. 2, lines 58-61).

Regarding Claim 5, Uchida et al. disclose the mechanical fastener is a clip or a frangible coupling (thermal compression bonding is understood to be a frangible coupling).

Regarding Claim 6, Uchida et al. disclose the connector (5) to be an integral part of the package (col. 3, lines 17-21 and 45-47).

Regarding Claim 7, Uchida et al. disclose the connector (5) to not be an integral part of the package (connector portion adjacent opening portion 1a is not an integral part of the package 2).

Regarding Claim 8, Uchida et al. disclose the connector (5) is bonded to the package (see Fig. 4).

Regarding Claim 9, Uchida et al. disclose the connector (5) is connected to the package by a mechanical fastener (col. 3, lines 45-47).

Regarding Claim 12, Uchida et al. disclose the connector is tape (col. 1, line 19).

Regarding Claim 14, Uchida et al. disclose (Figures 1-4) a hard copy consumable kit (1) comprising a hard copy consumable (1), a housing (2) arrangement to store the consumable (1), and a protective tape (5) bonded at one end to the housing (2) and at another end to a surface of the consumable (1), the tape being arranged to be removed from the surface of the consumable (1) by the action of removing the

Art Unit: 2852

consumable (1) from the package, wherein the tape (5) is bonded to one or more surfaces (3) of the housing (Abstract).

Regarding Claims 15-19, and 21 the method steps thereof are met by the operation of the apparatus as disclosed by Uchida et al. as applied to claims 1-9, 12, and 14 above.

Regarding Claim 22, Uchida et al. disclose (Figures 1-4) a package (2) adapted to contain a retail item (1), the package (2) comprising a protection element (5), the element (5) being connected to the package (2) and having a surface adapted to be removably connected to a portion of the item, such that the element (5) is arranged to be removed from the portion of the item (1) by the action of removing the item from the package, wherein the protection element (5) is connected to one or more surfaces (3) of the package (Abstract).

Regarding Claims 23 and 25, Uchida et al. disclose the protection element/connector (5) is removably connected to a surface (border around opening 1a) of the consumable (1) and is connected to one or more surfaces (3) of the package (2). (See Fig. 4)

Regarding Claim 24, Uchida et al. discloses the protective tape (5) is removably connected to a surface (border around opening 1a) of the consumable (1) and is connected to one or more surfaces (3) of the package (2). (See Fig. 4)

Regarding Claim 26, Uchida et al. disclose the package contains an item (1), such that the protection element (5) is removably connected to a surface (border around opening 1a) of the item (1) and is connected to one or more surfaces (3) of the package

(2). The limitation "retail", related to terms and conditions of sale, does not further limit the "package" of claim 1.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Uchida et al. in view of Applicant's prior art admission.

a. Uchida et al. disclose the elements as outlined in section 4 above.

b. Uchida et al. differs from the instant claimed invention in not disclosing the tape to be made from plastic material or rubber material such as a PVC or PET based material.

Art Unit: 2852

c. Applicants disclose (paragraph 20), "In the present embodiment, the tape may be of the conventional type used for such purposes. Generally such tapes are manufactured from a rubber or plastics material, such as a PVC or PET material."

d. It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to employ a PVC or PET tape, as disclosed by Applicants, with the cartridge packing concepts taught by Uchida et al., for the benefit of a conventional tape used in packaging (Applicants; paragraph 20).

8. Claims 10-11 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Uchida et al. in view of Hara (US 6,530,634).

a. Uchida et al. disclose the elements as outlined in section 4 above.

b. Uchida et al. differ from the instant claimed invention in not disclosing: the consumable to be a print head or cartridge for use in an inkjet printer; the connector adapted to substantially cover or protect a nozzle plate associated with the print-head or cartridge.

c. Hara discloses (Fig. 3) a consumable to be a print head or cartridge for use in an inkjet printer (col. 6, lines 57-59); a connector (35) adapted to substantially cover or protect a nozzle plate (33) associated with the print-head or cartridge (Fig. 3) wherein, when the cartridge is removed from a package, a sealing tape (35) remains connected to the packaging (col. 7, lines 17-24).

d. It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to employ the cartridge packaging concepts taught by Uchida et al. in a cartridge for use in an inkjet printer, for the benefit of a cartridge wherein all ink

Art Unit: 2852

chambers may be opened at one time, when a sealing tape is peeled off (Hara; col. 7, lines 17-20).

Response to Arguments

9. Applicant's arguments filed 05 July 2007 have been fully considered but they are not persuasive.

Applicants assert Uchida et al. fails to teach or disclose "the element being connected to the package and having a surface adapted to be removably connected to a portion of the consumable".

Examiner respectfully disagrees with Applicants assessment of Uchida et al.. Uchida et al. disclose an element 5 being connected to a package 2 (via seal 3) and having a surface removably connected to a portion of the consumable (border of consumable 1 that surrounds opening 1a creates a sealing surface for seal 5), see Uchida et al., col. 2 lines 21-28, and Fig. 4.

Applicants assert Uchida et al. fails to teach a mechanical fastener.

Examiner asserts that Uchida et al. teaches a thermal compression bonding between a sealing member 5 an opening portion 1a surrounding, see Uchida et al., col. 2, lines 58-61. Thus Uchida et al. teaches a mechanical fastener, as the physical/mechanical forces of thermal compression bonding gives rise to a fastening between sealing member 5 and consumable 1.

In response to applicant's arguments against the Hara reference individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208

Art Unit: 2852

USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Conclusion

2. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

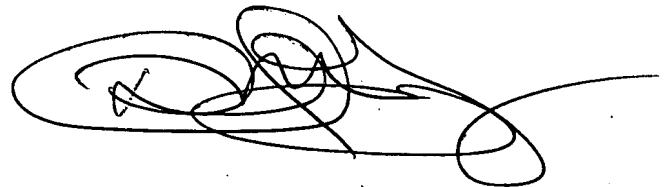
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bryan P. Ready whose telephone number is (571) 272-9018. The examiner can normally be reached on Mon.-Fri., 9:00 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Gray can be reached on (571) 272-2119. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2852

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

BPR

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right.

DAVID M. GRAY
SUPERVISORY PATENT EXAMINER